
SENATE BILL 5741

State of Washington

58th Legislature

2003 Regular Session

By Senators Eide, Roach, Franklin, Keiser, Regala, Fraser, Spanel, Jacobsen and Kohl-Welles

Read first time 02/10/2003. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to increased coordination between the Puget Sound
2 action team and other governmental entities; amending RCW 90.71.005,
3 90.71.010, 90.71.020, 90.71.040, 90.71.050, 90.71.060, 90.71.070,
4 90.71.090, 43.63A.247, 90.71.100, 28B.30.632, 70.118.090, 79.90.550,
5 and 90.48.260; creating a new section; and repealing RCW 90.71.902.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that the counties,
8 cities, and special purpose units of local government have major
9 responsibilities regarding the management, protection, and cleanup of
10 surface waters draining to Puget Sound, and other land use planning,
11 infrastructure, and public health and safety responsibilities that form
12 the foundation for the comprehensive and coordinated strategy set forth
13 in the 2000 Puget Sound water quality management plan. The Puget
14 Sound water quality action team is presently composed of ten state
15 agency representatives and only two local government representatives,
16 and does not adequately reflect the major responsibilities for water
17 quality carried out by local governments. Therefore it is the purpose
18 of this act to strengthen the local government membership on the Puget

1 Sound water quality action team, and to expand the assistance that the
2 team provides to local governments carrying out elements of the Puget
3 Sound plan.

4 **Sec. 2.** RCW 90.71.005 and 1998 c 246 s 13 are each amended to read
5 as follows:

6 (1) The legislature finds that:

7 (a) Puget Sound and related inland marine waterways of Washington
8 state represent a unique and unparalleled resource. A rich and varied
9 range of marine organisms, comprising an interdependent, sensitive
10 communal ecosystem reside in these sheltered waters. Residents of this
11 region enjoy a way of life centered around the waters of Puget Sound,
12 featuring accessible recreational opportunities, world-class port
13 facilities and water transportation systems, harvest of marine food
14 resources, shoreline-oriented life styles, water-dependent industries,
15 tourism, irreplaceable aesthetics, and other activities, all of which
16 to some degree depend upon a clean and healthy marine resource;

17 (b) The Puget Sound water quality authority has done an excellent
18 job in developing a comprehensive plan to identify actions to restore
19 and protect the biological health and diversity of Puget Sound;

20 (c) The large number of state and local governmental entities that
21 ~~((now))~~ have management, infrastructure, and regulatory programs
22 affecting the water quality of Puget Sound have diverse interests and
23 limited jurisdictions that ~~((cannot adequately))~~ require coordination
24 to address the cumulative, wide-ranging impacts that contribute to the
25 degradation of Puget Sound; and

26 (d) Coordination of ~~((the regulatory))~~ these programs, at the state
27 and local level, is best accomplished through the development of
28 interagency mechanisms, including representatives of local governments
29 within the Puget Sound basin, that allow these entities to transcend
30 their diverse interests and limited jurisdictions.

31 (2) It is therefore the policy of the state of Washington to
32 coordinate the activities of state and local agencies by establishing
33 a biennial work plan that clearly delineates state and local actions
34 necessary to protect and restore the biological health and diversity of
35 Puget Sound. It is further the policy of the state to implement the
36 Puget Sound water quality management plan to the maximum extent
37 possible. To further the policy of the state, a recovery plan or plans

1 developed under the federal endangered species act or under state or
2 local authority for a portion or all of the Puget Sound shall be
3 considered for inclusion into the Puget Sound water quality management
4 plan.

5 **Sec. 3.** RCW 90.71.010 and 1996 c 138 s 2 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Action team" means the Puget Sound water quality action team.

10 (2) "Chair" means the chair of the action team.

11 (3) "Council" means the Puget Sound council created in RCW
12 90.71.030.

13 (4) "Puget Sound management plan" means the ((1994)) 2000 Puget
14 Sound water quality management plan ((as it exists June 30, 1996,
15 and)), as subsequently amended by the action team.

16 (5) "Support staff" means the staff to the action team.

17 (6) "Work plan" means the work plan ((and budget)) developed by the
18 action team.

19 **Sec. 4.** RCW 90.71.020 and 1998 c 246 s 14 are each amended to read
20 as follows:

21 (1) The Puget Sound action team is created. The action team shall
22 consist of: The directors of the departments of ecology; agriculture;
23 natural resources; fish and wildlife; and community, trade, and
24 economic development; ((the secretaries of the departments of health
25 and transportation; the director of the parks and recreation
26 commission; the director of the interagency committee for outdoor
27 recreation; the administrative officer of the conservation commission
28 designated in RCW 89.08.050; one person)) three people representing
29 cities, appointed by the governor; one person representing special
30 purpose governments; three people representing counties, appointed by
31 the governor; ((one person)) two people representing federally
32 recognized tribes, appointed by the governor; and the chair of the
33 action team. In making the appointments for city, county, and special
34 purpose government representatives, the governor is encouraged to
35 select individuals with experience in local government and expertise in
36 the areas of water quality, public health, transportation, parks, and

1 recreation, as they relate to conditions and activities affecting the
2 water quality of Puget Sound. The action team shall also ~~((include))~~
3 invite the following ex officio nonvoting members: The regional
4 director of the United States environmental protection agency; the
5 regional administrator of the national marine fisheries service; and
6 the regional supervisor of the United States fish and wildlife service.
7 The members representing cities and counties shall each be reimbursed
8 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

9 (2) The action team shall:

10 (a) Prepare a Puget Sound work plan ~~((and budget for inclusion in~~
11 ~~the governor's biennial budget))~~);

12 (b) Coordinate monitoring and research programs ~~((as provided in~~
13 ~~RCW 90.71.060))~~);

14 (c) Consult with local governments in implementing the Puget Sound
15 water quality management plan and biennial work plans, and prioritize
16 attention by the team and its staff upon assisting local governments in
17 obtaining state and federal funding for carrying out local government
18 programs and in effectively coordinating local government programs with
19 those of neighboring local governments and state and federal programs;

20 (d) Work ~~((under the direction of))~~ in cooperation with the action
21 team chair ~~((as provided in RCW 90.71.040))~~);

22 ~~((d))~~ (e) Coordinate permitting requirements as necessary to
23 expedite permit issuance for any local watershed plan or habitat plan
24 developed pursuant to rules adopted under this chapter under chapter
25 90.82 or 77.85 RCW, or other comprehensive watershed plan developed to
26 address water quality or habitat protection or restoration;

27 ~~((e))~~ (f) Identify and resolve any policy or rule conflicts that
28 may exist between one or more agencies represented on the action team;

29 ~~((f))~~ (g) Periodically amend the Puget Sound management plan;

30 ~~((g))~~ (h) Enter into, amend, and terminate contracts with
31 individuals, corporations, or research institutions for the purposes of
32 this chapter;

33 ~~((h))~~ (i) Receive such gifts, grants, and endowments, in trust or
34 otherwise, for the use and benefit of the purposes of the action team.
35 The action team may expend the same or any income therefrom according
36 to the terms of the gifts, grants, or endowments;

37 ~~((i))~~ (j) Promote extensive public participation, and otherwise
38 seek to broadly disseminate information concerning Puget Sound;

1 ~~((j))~~ (k) Receive and expend funding from other public agencies;
2 ~~((k))~~ (l) To reduce costs and improve efficiency, periodically
3 review ~~((by December 1, 1996,))~~ all requirements for reports and
4 documentation from state agencies and local governments specified in
5 the plan for the purpose of eliminating and consolidating reporting
6 requirements; and

7 ~~((1) Beginning in December 1998, and every two years thereafter,))~~
8 (m) Submit a biennial report to the appropriate policy ~~((and fiscal))~~
9 committees of the legislature that describes and evaluates the
10 successes and shortcomings of the current work plan relative to the
11 priority problems identified for each geographic area of Puget Sound.

12 (3) ~~((By July 1, 1996, the action team shall begin developing its
13 initial work plan, which shall include the coordination of necessary
14 support staff.~~

15 ~~(4))~~ The action team shall incorporate, to the maximum extent
16 possible, the recommendations of the council regarding amendments to
17 the Puget Sound management plan and the work plan.

18 ~~((5))~~ (4) All proceedings of the action team are subject to the
19 open public meetings act under chapter 42.30 RCW.

20 **Sec. 5.** RCW 90.71.040 and 1996 c 138 s 5 are each amended to read
21 as follows:

22 (1) ~~((By June 1, 1996,))~~ The governor shall appoint a person in the
23 governor's office to chair the action team. The chair shall serve at
24 the pleasure of the governor.

25 (2) The chair shall be responsible for:

26 (a) Organizing the development of the council recommendations;

27 (b) Organizing the development of the work plan required under RCW
28 90.71.050;

29 (c) Presenting a work plan ~~((and budget recommendations))~~ to the
30 governor and the legislature;

31 (d) Overseeing the implementation of the elements of the work plan
32 that receive funding ~~((through appropriations))~~ by the legislature; and

33 (e) Serving as chair of the council.

34 (3) The chair of the action team shall be a full-time employee
35 responsible for the administration of all functions of the action team
36 and the council, including hiring and terminating support staff, budget
37 preparation, contracting, coordinating with the governor, the

1 legislature, and other state and local entities, and the delegation of
2 responsibilities as deemed appropriate. The salary of the chair shall
3 be fixed by the governor, subject to RCW 43.03.040.

4 **Sec. 6.** RCW 90.71.050 and 1998 c 246 s 15 are each amended to read
5 as follows:

6 (1)(a) Each biennium, the action team shall prepare a Puget Sound
7 work plan ~~((and budget for inclusion in the governor's biennial~~
8 ~~budget))~~. The work plan shall ~~((prescribe))~~ describe the necessary
9 federal, state, and local actions to maintain and enhance Puget Sound
10 water quality, including but not limited to, enhancement of
11 recreational opportunities, and restoration of a balanced population of
12 indigenous shellfish, fish, and wildlife. The work plan ~~((and budget))~~
13 shall include specific actions and projects pertaining to salmon
14 recovery plans.

15 (b) In developing a work plan, the action team shall meet the
16 following objectives:

17 (i) Use the plan elements of the Puget Sound management plan to
18 prioritize local and state actions necessary to restore and protect the
19 biological health and diversity of Puget Sound;

20 (ii) Consider the problems and priorities identified in local
21 plans; and

22 (iii) Coordinate the work plan activities with other relevant
23 activities, including but not limited to, agencies' activities that
24 have not been funded through the plan, local plans, and governmental
25 and nongovernmental watershed restoration activities.

26 ~~((c) In developing a budget, the action team shall identify:~~

27 ~~(i) The total funds to implement local projects originating from~~
28 ~~the planning process developed for nonpoint pollution; and~~

29 ~~(ii) The total funds to implement any other projects designed~~
30 ~~primarily to restore salmon habitat.))~~

31 (2) In addition to the requirements identified under RCW
32 90.71.020(2)(a), the work plan ~~((and budget))~~ shall:

33 (a) ~~((Identify and prioritize the local and state actions necessary~~
34 ~~to address the water quality problems in the following locations:~~

35 ~~(i) Area 1: Island and San Juan counties;~~

36 ~~(ii) Area 2: Skagit and Whatcom counties;~~

37 ~~(iii) Area 3: Clallam and Jefferson counties;~~

1 ~~(iv) Area 4: Snohomish, King, and Pierce counties; and~~

2 ~~(v) Area 5: Kitsap, Mason, and Thurston counties;~~

3 ~~(b) Provide sufficient)) Identify funding ((to characterize)) needs~~
4 ~~for local watersheds, provide technical assistance, ((and)) implement~~
5 ~~state responsibilities identified in the work plan((. The number and~~
6 ~~qualifications of staff assigned to each region shall be determined by~~
7 ~~the types of problems identified pursuant to (a) of this subsection)),~~
8 ~~and recommend actions to local governments;~~

9 ~~((c) Provide sufficient)) (b) Identify funding ((to implement))~~
10 ~~needs for implementation and ((coordinate)) coordination of the Puget~~
11 ~~Sound ambient monitoring plan pursuant to RCW 90.71.060;~~

12 ~~((d) Provide funds to assist)) (c) Identify funding needs for~~
13 ~~local jurisdictions to implement elements of the work plan assigned to~~
14 ~~local governments and to develop and implement local plans; and~~

15 ~~((e) Provide sufficient funding to provide support staff for the~~
16 ~~action team; and~~

17 ~~((f)) (d) Describe any proposed amendments to the Puget Sound~~
18 ~~management plan.~~

19 (3) The work plan shall be submitted to the governor by September
20 15th of each even-numbered year and to the appropriate policy ~~((and~~
21 ~~fiscal))~~ committees of the legislature by December 20th of each even-
22 numbered year.

23 ~~((4) The work plan shall be implemented consistent with the~~
24 ~~legislative provisos of the biennial appropriation acts.))~~

25 **Sec. 7.** RCW 90.71.060 and 1996 c 138 s 7 are each amended to read
26 as follows:

27 In addition to other powers and duties specified in this chapter,
28 the action team shall ensure implementation and coordination of the
29 Puget Sound ambient monitoring program established in the Puget Sound
30 management plan. The program shall include, at a minimum:

31 (1) A research program, including but not limited to methods to
32 provide current research information to managers and scientists, and to
33 establish priorities based on the needs of the action team;

34 (2) A monitoring program, including baselines, protocols,
35 guidelines, and quantifiable performance measures. In consultation
36 with state agencies, local and tribal governments, and other public and
37 private interests, the action team shall develop and track quantifiable

1 performance measures that can be used by the governor and the
2 legislature to assess the effectiveness over time of programs and
3 actions initiated under the plan to improve and protect Puget Sound
4 water quality and biological resources. (~~The performance measures
5 shall be developed by June 30, 1997.~~) The performance measures shall
6 include, but not be limited to a methodology to track the progress of:
7 Fish and wildlife habitat; sites with sediment contamination; wetlands;
8 shellfish beds; and other key indicators of Puget Sound health. State
9 agencies shall, and local governments are encouraged to, assist the
10 action team in the development and tracking of these performance
11 measures. The performance measures may be limited to a selected
12 geographic area.

13 **Sec. 8.** RCW 90.71.070 and 1996 c 138 s 8 are each amended to read
14 as follows:

15 (1) Local governments are (~~required~~) encouraged to implement
16 local elements of the biennial work plan (~~(subject to the availability
17 of appropriated funds or other funding sources)~~) and management plan.

18 (2) The (~~council~~) action team shall review the progress of work
19 plan implementation(~~(. Where prescribed actions have not been
20 accomplished in accordance with the work plan, the)~~) and work
21 cooperatively with responsible (~~(agency shall submit to the council
22 written explanations for the shortfalls, together with proposed
23 remedies)~~) local governments and state agencies to address delays or
24 shortfalls in plan implementation.

25 **Sec. 9.** RCW 90.71.090 and 1992 c 63 s 15 are each amended to read
26 as follows:

27 (1) The Puget Sound (~~water quality authority~~) action team shall
28 have the following powers and duties in carrying out its
29 responsibilities for the senior environmental corps created under RCW
30 43.63A.247:

31 Appoint a representative to the coordinating council;

32 Develop project proposals;

33 Administer project activities within the agency;

34 Develop appropriate procedures for the use of volunteers;

35 Provide project orientation, technical training, safety training,
36 equipment, and supplies to carry out project activities;

1 Maintain project records and provide project reports;
2 Apply for and accept grants or contributions for corps approved
3 projects; and

4 With the approval of the council, enter into memoranda of
5 understanding and cooperative agreements with federal, state, and local
6 agencies to carry out corps approved projects.

7 (2) The authority shall not use corps volunteers to displace
8 currently employed workers.

9 **Sec. 10.** RCW 43.63A.247 and 1994 c 264 s 25 are each amended to
10 read as follows:

11 The senior environmental corps is created within the department of
12 community, trade, and economic development. The departments of
13 agriculture, community, trade, and economic development, employment
14 security, ecology, fish and wildlife, health, and natural resources,
15 the parks and recreation commission, and the Puget Sound (~~water~~
16 ~~quality authority~~) action team shall participate in the administration
17 and implementation of the corps and shall appoint representatives to
18 the council.

19 **Sec. 11.** RCW 90.71.100 and 2001 c 273 s 3 are each amended to read
20 as follows:

21 (1) The action team shall establish a shellfish - on-site sewage
22 grant program in Puget Sound and for Pacific and Grays Harbor counties.
23 The action team shall provide funds to local health jurisdictions to be
24 used as grants to individuals for improving their on-site sewage
25 systems. The grants may be provided only in areas that have the
26 potential to adversely affect water quality in commercial and
27 recreational shellfish growing areas. A recipient of a grant shall
28 enter into an agreement with the appropriate local health jurisdiction
29 to maintain the improved on-site sewage system according to
30 specifications required by the local health jurisdiction. The action
31 team shall work closely with local health jurisdictions and shall
32 endeavor to attain geographic equity between Willapa Bay and the Puget
33 Sound when making funds available under this program. For the purposes
34 of this subsection, "geographic equity" means issuing on-site sewage
35 grants at a level that matches the funds generated from the oyster
36 reserve lands in that area.

1 (2) In the Puget Sound, the action team shall give first priority
2 to areas that are:

3 (a) Identified as "areas of special concern" under WAC 246-272-
4 01001; or

5 (b) Included within a shellfish protection district under chapter
6 90.72 RCW.

7 (3) In Grays Harbor and Pacific counties, the action team shall
8 give first priority to preventing the deterioration of water quality in
9 areas where commercial or recreational shellfish are grown.

10 (4) The action team and each participating local health
11 jurisdiction shall enter into a memorandum of understanding that will
12 establish an applicant income eligibility requirement for individual
13 grant applicants from within the jurisdiction and other mutually
14 agreeable terms and conditions of the grant program.

15 (5) The action team may recover the costs to administer this
16 program not to exceed ten percent of the shellfish - on-site sewage
17 grant program.

18 ~~((6) For the 2001-2003 biennium, the action team may use up to
19 fifty percent of the shellfish on-site sewage grant program funds for
20 grants to local health jurisdictions to establish areas of special
21 concern under WAC 246-272-01001, or for operation and maintenance
22 programs therein, where commercial and recreational uses are present.))~~

23 **Sec. 12.** RCW 28B.30.632 and 1990 c 289 s 2 are each amended to
24 read as follows:

25 (1) The sea grant and cooperative extension shall jointly
26 administer a program to provide field agents to work with local
27 governments, property owners, and the general public to increase the
28 propagation of shellfish, and to address Puget Sound water quality
29 problems within Kitsap, Mason, and Jefferson counties that may limit
30 shellfish propagation potential. The sea grant and cooperative
31 extension shall each make available the services of no less than two
32 agents within these counties for the purposes of this section.

33 (2) The responsibilities of the field agents shall include but not
34 be limited to the following:

35 (a) Provide technical assistance to property owners, marine
36 industry owners and operators, and others, regarding methods and

1 practices to address nonpoint and point sources of pollution of Puget
2 Sound;

3 (b) Provide technical assistance to address water quality problems
4 limiting opportunities for enhancing the recreational harvest of
5 shellfish;

6 (c) Provide technical assistance in the management and increased
7 production of shellfish to facility operators or to those interested in
8 establishing an operation;

9 (d) Assist local governments to develop and implement education and
10 public involvement activities related to Puget Sound water quality;

11 (e) Assist in coordinating local water quality programs with
12 region-wide and statewide programs;

13 (f) Provide information and assistance to local watershed
14 committees.

15 (3) The sea grant and cooperative extension shall mutually
16 coordinate their field agent activities to avoid duplicative efforts
17 and to ensure that the full range of responsibilities under RCW
18 28B.30.632 (~~((through 28B.30.636))~~) and 28B.30.634 are carried out. They
19 shall consult with the Puget Sound (~~((water quality authority))~~) action
20 team and ensure consistency with the authority's water quality
21 management plan.

22 (4) Recognizing the special expertise of both agencies, the sea
23 grant and cooperative extension shall cooperate to divide their
24 activities as follows:

25 (a) Sea grant shall have primary responsibility to address water
26 quality issues related to activities within Puget Sound, and to provide
27 assistance regarding the management and improvement of shellfish
28 production; and

29 (b) Cooperative extension shall have primary responsibility to
30 address upland and freshwater activities affecting Puget Sound water
31 quality and associated watersheds.

32 **Sec. 13.** RCW 70.118.090 and 1994 c 281 s 6 are each amended to
33 read as follows:

34 The department may not use funds appropriated to implement an
35 element of the Puget Sound (~~((water quality authority))~~) action team work
36 plan to conduct any activity required under chapter 281, Laws of 1994.

1 **Sec. 14.** RCW 79.90.550 and 1987 c 259 s 1 are each amended to read
2 as follows:

3 The legislature finds that the department of natural resources
4 provides, manages, and monitors aquatic land disposal sites on state-
5 owned aquatic lands for materials dredged from rivers, harbors, and
6 shipping lanes. These disposal sites are approved through a
7 cooperative planning process by the departments of natural resources
8 and ecology, the United States corps of engineers, and the United
9 States environmental protection agency in cooperation with the Puget
10 Sound (~~(water quality authority)~~) action team. These disposal sites
11 are essential to the commerce and well being of the citizens of the
12 state of Washington. Management and environmental monitoring of these
13 sites are necessary to protect environmental quality and to assure
14 appropriate use of state-owned aquatic lands. The creation of an
15 aquatic land dredged material disposal site account is a reasonable
16 means to enable and facilitate proper management and environmental
17 monitoring of these disposal sites.

18 **Sec. 15.** RCW 90.48.260 and 1988 c 220 s 1 are each amended to read
19 as follows:

20 The department of ecology is hereby designated as the State Water
21 Pollution Control Agency for all purposes of the federal clean water
22 act as it exists on February 4, 1987, and is hereby authorized to
23 participate fully in the programs of the act as well as to take all
24 action necessary to secure to the state the benefits and to meet the
25 requirements of that act. With regard to the national estuary program
26 established by section 320 of that act, the department shall exercise
27 its responsibility jointly with the Puget Sound (~~(water quality~~
28 ~~authority)~~) action team. The powers granted herein include, among
29 others, and notwithstanding any other provisions of chapter 90.48 RCW
30 or otherwise, the following:

31 (1) Complete authority to establish and administer a comprehensive
32 state point source waste discharge or pollution discharge elimination
33 permit program which will enable the department to qualify for full
34 participation in any national waste discharge or pollution discharge
35 elimination permit system and will allow the department to be the sole
36 agency issuing permits required by such national system operating in
37 the state of Washington subject to the provisions of RCW 90.48.262(2).

1 Program elements authorized herein may include, but are not limited
2 to: (a) Effluent treatment and limitation requirements together with
3 timing requirements related thereto; (b) applicable receiving water
4 quality standards requirements; (c) requirements of standards of
5 performance for new sources; (d) pretreatment requirements; (e)
6 termination and modification of permits for cause; (f) requirements for
7 public notices and opportunities for public hearings; (g) appropriate
8 relationships with the secretary of the army in the administration of
9 his responsibilities which relate to anchorage and navigation, with the
10 administrator of the environmental protection agency in the performance
11 of his duties, and with other governmental officials under the federal
12 clean water act; (h) requirements for inspection, monitoring, entry,
13 and reporting; (i) enforcement of the program through penalties,
14 emergency powers, and criminal sanctions; (j) a continuing planning
15 process; and (k) user charges.

16 (2) The power to establish and administer state programs in a
17 manner which will insure the procurement of moneys, whether in the form
18 of grants, loans, or otherwise; to assist in the construction,
19 operation, and maintenance of various water pollution control
20 facilities and works; and the administering of various state water
21 pollution control management, regulatory, and enforcement programs.

22 (3) The power to develop and implement appropriate programs
23 pertaining to continuing planning processes, area-wide waste treatment
24 management plans, and basin planning.

25 The governor shall have authority to perform those actions required
26 of him or her by the federal clean water act.

27 NEW SECTION. **Sec. 16.** RCW 90.71.902 (Implementation and
28 requirements of plan not affected by repeal--1990 c 115) and 1990 c 115
29 s 13 are each repealed.

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